

FILED

SEP 17 2013

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA

BUTTE DIVISION

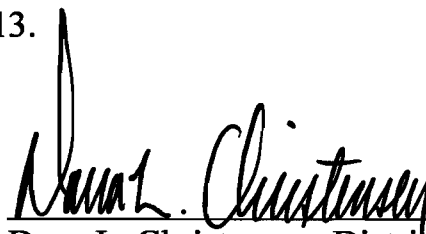
MICHAEL STECKMEST,)	CV 12-35-BU-DLC-RWA
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
FARMERS INSURANCE)	
EXCHANGE and JOHN DOES 1)	
through 5,)	
)	
Defendants.)	
)	

Plaintiff Michael Steckmest filed a motion to remand and request for fees and costs (doc. 8) which is pending in this matter. United States Magistrate Judge Richard W. Anderson entered Findings and Recommendation on August 9, 2013, recommending denying the motion. The parties did not timely object to the Findings and Recommendation, and so have waived the right to *de novo* review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Anderson found that because Steckmest's complaint failed to allege a sufficiently specific total amount in controversy, the applied standard is preponderance of the evidence. *Guglielmino v. McKee Foods Corp.*, 506 F.3d 696 (9th Cir. 2007). After seven months of discovery Judge Anderson found the facts as alleged in the Complaint could result in a total amount in controversy in excess of five million dollars as required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d). There being no clear error in Judge Anderson's Findings and Recommendation,

IT IS HEREBY ORDERED that Judge Anderson's Findings and Recommendation (doc. 39) are adopted in full. Plaintiff's motion to remand (doc. 8) is DENIED.

Dated this 17th day of September, 2013.



Dana L. Christensen, District Judge
United States District Court